

PATENT COOPERATION TREATY

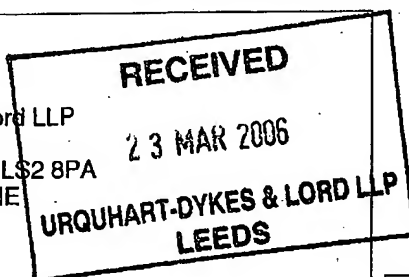
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In the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

BELCHER, Simon J.
Urquhart-Dykes & Lord LLP
Tower North Central
Merrion Way, Leeds LS2 8PA
GRANDE BRETAGNE



NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing
(day/month/year) 21.03.2006

Applicant's or agent's file reference
SJB/P211061WO

IMPORTANT NOTIFICATION

International application No.
PCT/GB2005/000734

International filing date (day/month/year)
23.02.2005

Priority date (day/month/year)
27.02.2004

Applicant
DEPUY INTERNATIONAL LTD et al.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.

2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.

3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the International
preliminary examining authority:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer.

Tayea, T
Tel. +49 89 2399-7457



PATENT COOPERATION TREATY



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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

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Applicant's or agent's file reference SJB/P211061WO		FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/GB2005/000734		International filing date (day/month/year) 23.02.2005	Priority date (day/month/year) 27.02.2004	
International Patent Classification (IPC) or national classification and IPC A61B17/17				
Applicant DEPUY INTERNATIONAL LTD et al.				
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>				
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>				
Date of submission of the demand 15.12.2005		Date of completion of this report 21.03.2006		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized Officer Held, G Telephone No. +49 89 2399-2248 		

**INTERNATIONAL PRELIMINARY REPORT
 () PATENTABILITY**

International application No.
 PCT/GB2005/000734

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-15 as originally filed

Claims, Numbers

1-18 as originally filed

Drawings, Sheets

1/5-5/5 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
 4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT
() PATENTABILITY

International application No.
PCT/GB2005/000734

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-18
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/GB2005/000734

1 Re Item V.

1.1 Reference is made to the following documents:

D1 : US 2002/193801 A1 (MARCHIONE ANDREAS ET AL) 19 December 2002
(2002-12-19)

D2 : US 5 597 379 A (HAINES ET AL) 28 January 1997 (1997-01-28)

1.2 INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject matter of independent claim 1 does not involve an inventive step in the sense of Article 33(3)PCT.

Document D1, which is considered to represent the most relevant state of the art to the subject matter of claim 1, discloses (the references in parentheses applying to this document):

A drill guide assembly for determining the axis for drilling a bore in a bone comprising

- a drill guide sleeve,
- a carriage in which the drill guide sleeve is mounted towards a first end thereof so that the angular orientation of the drill guide sleeve relative to the carriage can be adjusted,
- a platform which can be fastened to the bone, which includes at least three feet (see document D1, Figures and paragraph 0021).

The subject-matter of independent claim 1 differs from the disclosure of D1 in that the carriage includes at least one threaded angle-adjustment screw and the platform includes at least one threaded translation-adjustment screw.

The problem to be solved by said adjustment screws is to precisely adjust the drill guide.

Document D2 shows an adjustment screw to set the distance between the guide body 28 and the referencing component 70 (see D2: Fig. 1 and column 7, lines 58 - 67).

Moreover, the use of adjustment screws in order to precisely adjust two parts and self-locking threads are very well known in the area of mechanical engineering. Thus, the skilled person would copy such features and would implement them into the D1 device. Therefore, the solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT).

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

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1.3 DEPENDENT CLAIMS 2-18

Dependent claims 2-18 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(3) PCT) since they are merely an aggregation of already known features or are considered as one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed.

2 Re Item VII

Certain defects in the international application

2.1 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

2.2 Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).